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Katherine Polk Failla,
United States District Judge,
40 Foley Square, Courtroom 618
New York, NY 10007

January 9, 2023

MEMO ENDORSED

**Re: Eddie Gilyard v RKR Transport,
LLC., and "John Doe",
21-cv-3392 (KPF)**

Dear Judge Failla,

My name is Supriya Kichloo, Esq and I am an attorney with the firm of Gordon & Gordon, P.C., and we are trial counsel to Harmon, Linder & Rogowsky, Esqs., attorneys for the plaintiff in this matter.

We regret to inform the Court that Mr. Eddie Gilyard has passed away, as stated by defense counsel in their letter, and are also requesting the trial scheduled in this matter be adjourned and the case marked stayed however do not agree with defense counsel's position that plaintiff's counsel or trial counsel kept this information from defense counsel. Undersigned trial counsel and plaintiff's counsel only found out today of his passing as confirmed by the deceased's mother this afternoon.

Plaintiff's counsel and undersigned trial counsel also were in the midst of preparing for the trial and had in fact prepared various pre-trial documents, which were due today. If plaintiff's counsel had known of plaintiff's passing, that information would have been shared with defense counsel and with the Court promptly. We had no reason to assume Mr. Gilyard had passed away and thus did not search his name or for his obituary online.

We apologize for the inconvenience and thank the Court for its consideration in this matter.

Sincerely yours,
Gordon & Gordon, P.C.

/s/Supriya Kichloo, Esq
Supriya Kichloo, Esq.

The Court is in receipt of a letter from Defendant (Dkt. #41) and the above letter from Plaintiff's counsel, both notifying the Court of Plaintiff's death. The Court is sorry to hear of Mr. Gilyard's passing and wishes his family and loved ones well during this difficult time.

The Court construes the parties' letters as a notice of death pursuant to Federal Rule of Civil Procedure 25(a). Accordingly, any party or the decedent's successor or representative may make a motion for substitution within 90 days of today's date. Fed. R. Civ. P. 25(a). To afford the interested parties time to pursue substitution or otherwise resolve this matter, all trial-related dates detailed at docket entry 37 are hereby STAYED pending further order of the Court. The parties are hereby ORDERED to file a joint letter proposing next steps in this action on or before **April 14, 2023** if no substitution motion has been filed by that time.

The Court will reserve judgment on Defendant's request for trial-related costs until the issue of substitution has been resolved. If Defendant intends to pursue that request, it shall so indicate in the joint letter.

The Clerk of Court is directed to terminate the motion at docket entry 42.

Dated: January 9, 2023
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE